HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (S) No. 7234 of 2006

Petitioner		Miliayanus Khalkho, S/o Iliyas Khalkho, Aged about 51 years, R/o Village- Khairbar, Khudipara, Ambikapur, Dist : Sarguja – (C.G.)
	Versus	
Respondents	1.	State of Chhattisgarh, Through The Secretary, Co-operative Department, D.K.S. Bhawan, Raipur, Dist : Raipur –(C.G.)
	2.	The Registrar Co-Operative Society, Bilaspur –(C.G.)
	3.	The President, Zila Sahakari Kendriya Bank, Marayadit, Ambikapur, Dist : Sarguja –(C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE COSTITUTION OF INDIA

SB: Hon'ble Mr. Justice **Satish K. Agnihotri**

Shri A. N. Pandey, Advocate for the petitioner.

Shri Satish Gupta, Deputy Govt. Advocate for the respondents No. 1 & 2.

ORDER

(Passed on this 9th day of May, 2007)

1. By this petition, the petitioner has prayed for a suitable writ or direction to quash the impugned order dated 20th January, 1983 (Annexure P/1) passed by the respondent No.3, terminating the services of the petitioner, on the ground of embezzlement of amount of the Samiti.

2. The brief facts, in nutshell, are that the petitioner was appointed on the post of Co-operative Manager w.e.f. 19.9.1977. Vide order dated 20th January, 1983 (Annexure P/1) the services of the petitioner was terminated by the respondent No.3, in accordance with the Service Rule No. 57, on the allegation that the petitioner had embezzlement the amount of the Samiti. It is clear from the reading of the

impugned order, that before terminating the service of the petitioner, a show cause notice dated 2.12.1982 was issued to the petitioner, which was replied by him and he had accepted the allegations levelled against him in the reply to show cause notice.

3. Thereafter, the respondent No.3 lodged a F.I.R. against the petitioner. The petitioner, along with co-accused namely Badhdur, was prosecuted in the Criminal Case No. 218/2004, wherein the petitioner is acquitted vide judgment dated 28.9.2005, passed by the Judicial Magistrate First Class, Manendragarh, district – Koria.
4. Learned counsel appearing for the petitioner submits that the termination order dated 20.1.1983 be quashed and the petitioner be reinstated in service, as the petitioner has been exonerated in the Criminal Case No. 218/2004, with regard to the same incident.
5. The termination of the petitioner was not on the ground of pendency of the criminal case. The petitioner has filed this petition on 13.12.2006, seeking quashing of the impugned order dated 20.1.1983. The ground of delay shown by the petitioner that after his acquittal from the criminal Court, the respondent No.3 has not reinstated the petitioner in service.
6. The contention of the petitioner deserves to be noted for rejection only as the services of the petitioner was not terminated on account of lodging of a criminal case with regard to the said incident. The services of the petitioner was terminated on the ground that the petitioner had accepted the allegation of embezzlement levelled against him, in the reply to the show cause notice. The petitioner has slept over his right for about 24 years. The petitioner woke up from his slumber after his acquittal in criminal case which was not a ground for termination.

7. The petitioner has filed this petition with inordinate and unexplained delay of about 24 years. The Hon'ble Supreme Court in **P. S. Sadasivaswamy Vs. State of Tamil Nadu** (A.I.R. 1974 SC 2271), has held as under:

> "It is not that there is any period of limitation for the Courts to exercise their powers under Article 226, nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters."

8. The Hon'ble Supreme Court in **State of M.P. v. Nandlal Jaiswal** {(1986) 4 SCC 566), which was relied on in **Karnataka Power Corpn. Ltd. through its Chairman & Managing Director & another V. K. Thangappan and another** { (2006) 4 SCC 322}, held that it is well settled that High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic as the belated approach may have the effect of inflicting not only hardship as inconvenience but also injustice on third parties.

9. In view of the dicta laid down by the Hon'ble Supreme Court in several decisions and applying the settled position of law to the facts of the case, wherein the petitioner has approached this Court after a period of 24 years, without any justified reason, this petition deserves to be and is dismissed, summarily.

Sd/-
Satish K. Agnihotri
Judge

Thakur